petition the franchising authority for change in its regulatory status. The operator bears the burden of proving the existence of effective competition. Oppositions may be filed within 15 days of public notice of the filing of the petition, and must be served on the operator. Cable operators may reply within 7 days of filing of oppositions.

(b) Franchising authority decisions on petitions for change in status must be made within 30 days after the pleading cycle set forth in paragraph (a) of this section closes. Franchising authorities must notify the Commission within ten days of any decision changing status. Unless the Commission receives an opposition to such change in status, the decision will become final 30 days after adoption by the franchising authority.

(c) After an initial determination of the franchising authority that effective competition exists becomes final, the franchising authority will then cease regulating basic cable service rates, and the Commission's regulatory authority over cable programming services for the system in the franchise area will also cease.

(d) A cable operator and a franchising authority may submit a joint statement that effective competition exists. The joint statement must stipulate which of the three statutory tests for effective competition has been met and explain how the test has been satisfied. These joint statements will become final decisions within 30 days of filing with the Commission, unless challenged by an interested party.

(e) Cable operators denied a change in status by a franchising authority may seek review of that finding at the Commission by filing a petition for revocation.

(f) In cases where a local franchising authority has not been certified to regulate rates, a cable operator may petition the Commission for change in its regulatory status. The time periods in paragraph (a) of this section will apply to oppositions and replies concerning these petitions.

§ 76.916 Petition for recertification.

(a) After its request for certification has been denied or its existing certification has been revoked, a franchising authority wishing to assume jurisdiction to regulate basic service and associated equipment rates must file a ''Petition for Recertification'' accompanied by a copy of the earlier decision denying or revoking certification.

(b) The petition must:

(1) Meet the requirements set forth in 47 U.S.C. 543(a)(3);

(2) State that the cable system is not subject to effective competition; and

(3) Contain a clear showing, supported by either objectively verifiable data such as a state statute, or by affidavit, that the reasons for the earlier denial or revocation no longer pertain.

(c) The petition must be served on the cable operator and on any interested party that participated in the proceeding denying or revoking the original certification.

(d) Oppositions may be filed within 15 days after the petition is filed, and must be served on the petitioner. Replies may be filed within seven days of filing of oppositions, and must be served on the opposing party(ies).

§ 76.917 Notification of certification withdrawal.

A franchising authority that has been certified to regulate rates may, at any time, notify the Commission that it no longer intends to regulate basic cable rates. Such notification shall include the franchising authority's determination that rate regulation no longer serves the interests of cable subscribers served by the cable system within the franchising authority's jurisdiction, and that it has received no consideration for its withdrawal of certification. Such notification shall be served on the cable operator. The Commission retains the right to review such determinations and to request the factual finding of the franchising authority underlying its decision to withdraw certification. The franchising authority's withdrawal becomes effective upon notification to the Commission.

[59 FR 17972, Apr. 15, 1994]

§ 76.920 Composition of the basic tier.

Every subscriber of a cable system must subscribe to the basic tier in order to subscribe to any other tier of